



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-0180]

RIN 1625-AA00

Safety Zone; Arts Project Cherry Grove Pride Week Fireworks

Display; Great South Bay, Cherry Grove, Fire Island, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of Great South Bay near Cherry Grove, Fire Island, NY for the Arts Project Cherry Grove Pride Week fireworks display. This action is necessary to provide for the safety of life on navigable waters during the event. The safety zone will facilitate public notification of the event and provide protective measures for the maritime public and event participants from the hazards associated with the fireworks display. Entering into, transiting through, remaining, anchoring or mooring within this regulated area would be prohibited unless authorized by the Captain of the Port (COTP) Sector Long Island Sound.

DATES: This rule is effective from June 21, 2014 to June 22, 2014. This rule will be enforced from 8:30 p.m. until 10:30 p.m.

on June 21, 2014. If the event is cancelled due to inclement weather, then this regulation will be enforced from 8:30 p.m. until 10:30 p.m. on June 22, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2014-0180]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Scott Baumgartner, Prevention Department, Coast Guard Sector Long Island Sound, (203) 468-4559, Scott.A.Baumgartner@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On April 25, 2014 the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Arts Project Cherry Grove Pride Week Fireworks Display; Great South Bay; Cherry Grove, Fire Island, NY" in the Federal Register (79 FR 22916). No public comments were received on the proposed rule. No public meeting was requested and none was held

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. The Arts Project Cherry Grove Pride Week fireworks display is scheduled for June 21, 2014. The comment period for the NPRM associated with this event expired on May 27, 2014 providing insufficient time for a 30 day effective period. The event sponsor is unwilling and unable to postpone the event because of financial and logistical concerns. The fireworks display is scheduled to coincide with the Arts Project Cherry Grove Pride Week. Delaying the event does not align with that goal and the many sponsors helping to fund this event would be impacted as they have done so with the expectation that it will coincide with Pride Week activities. Furthermore, the planning and coordination with local authorities to support this event was based around a June 21, 2014 event date with a June 22, 2014 rain date and any last minute changes would be difficult to accommodate.

A safety zone is needed to protect the safety of life and property on navigable waters from the hazards associated with this event and it would be contrary to public interest to delay promulgating this rule by delaying the effective date.

B. Basis and Purpose

The legal basis for this temporary rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1 which collectively authorize the Coast Guard to define regulatory safety zones.

This temporary rule is necessary to promote the safety of life on navigable waterways during the Arts Project Cherry Grove Pride Week fireworks display in Great South Bay near Cherry Grove, Fire Island, NY.

C. Discussion of Comments, Changes and the Final Rule

The effective dates of the temporary final rule are June 21 2014 through June 22, 2014. The effective dates of this regulation have changed from those listed in the NPRM because the event sponsor used the wrong dates, a June 28, 2014 event date with a June 29, 2014 rain date, in their marine event application to the Coast Guard. The event is scheduled as part of Pride Week activities in Cherry Grove, NY which end on June 22, 2014. No comments were received on the proposed rule.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard determined that this rulemaking would not be a significant regulatory action for the following reasons: The regulated area will be of limited duration, the area covers only a small portion of the navigable waterways and waterway users may transit around the area. Also, mariners may request permission from the COTP Sector Long Island Sound or the designated representative to transit the zone.

Advanced public notifications will also be made to the local maritime community through the Local Notice to Mariners as well as Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-

612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received zero comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit, anchor or moor within the regulated area during the effective period. The temporary safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the regulated area will be of limited size and of short duration and mariners may request permission from the COTP Sector Long Island Sound or the designated representative to transit the zone. Notifications will be made to the maritime community through the Local Notice to Mariners and Broadcast Notice to Mariners well in advance of the event.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to

assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this

rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165-REGULATED NAVIGATION AREA AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T01-0180 to read as follows:

§ 165.T01-0180 Safety Zone; Arts Project Cherry Grove Pride Week Fireworks Display; Great South Bay; Cherry Grove, Fire Island, NY.

(a) Location. The following area is a safety zone: All waters of Great South Bay within a 600-foot radius of the fireworks barge located about 400 yards north of the main dock at Cherry Grove, Fire Island, NY in approximate position 40°39'49.06"N, 073°05'27.99"W North American Datum 1983.

(b) Enforcement Period. This rule will be enforced on June 21, 2014 from 8:30 p.m. until 10:30 p.m. If the event is postponed due to inclement weather, then this rule will be enforced on June 22, 2014 from 8:30 p.m. until 10:30 p.m.

(c) Regulations. The general regulations contained in 33 CFR 165.23 apply. During the enforcement period, entering into, transiting through, remaining, mooring or anchoring

within this safety zone is prohibited unless authorized by the Captain of the Port (COTP) or the designated representatives.

- (1) Definitions. The following definitions apply to this section:

(i) Designated Representative. A "designated representative" is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP, Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(ii) Official Patrol Vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound.

(iii) Spectators. All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

- (2) Spectators desiring to enter or operate within the regulated area should contact the COTP Sector Long Island

Sound at 203-468-4401 (Sector Long Island Sound command center) or the designated representative via VHF channel 16 to obtain permission to do so. Spectators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP Sector Long Island Sound or the designated on-scene representative.

- (3) Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.
- (4) Fireworks barges used in this location will have a sign on their port and starboard side labeled "FIREWORKS-STAY AWAY". This sign will consist of 10 inch high by 1.5 inch wide red lettering on a white background.

Dated: June 6, 2014

E. J. Cubanski, III
Captain, U. S. Coast Guard
Captain of the Port Sector Long Island Sound

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